REMARKS

I.   Overview

Claims 1-20 are pending in the present application. Claims 14-20 have been added, and claims 1, 3, 5, 8 and 10 have been amended. No new matter has been added. Applicant respectfully requests reconsideration of the claims in view of the following remarks.

The issues raised by the Examiner in the current Office Action dated April 7, 2008 (*Office Action*) are as follows:

- Claims 4, 5, 6, 7, 11, 12 and 13 are objected to under 37 C.F.R. § 1.75(c) as being improper multiple dependent claims;
- Claims 1-3, 5-10, and 13 have been rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by U.S. Patent No. 5,732,213 to Gessel (hereinafter "Gessel"); and
- Claims 4 and 11 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Gessel in view of U.S. Patent No. 6,560,723 to Matsui (hereinafter "Matsui").

Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal in light of the amendments and remarks presented herein.

II.   Amendments

A. *Specification*

Applicant has amended typographical errors in the original specification. No new matter is added by these corrections. The correction on page 5 is supported by field 29a of original Figure 2. The correction on page 6 is an obvious spelling correction.

B. *Claims*

Claims 1 and 8 have been amended to specify that the a list of protocol layers are displayed and that the list of protocol layers includes at least one layer 2 protocol from an OSI (Open Systems Interconnection) reference model. Claims 1 and 8 further specify that a list of abstract communication interfaces are displayed, wherein the list of abstract communication interfaces are associated with the protocol layer to be emulated. No new matter is added by these amendments, which are supported in the original application at least at Figure 2 and on page 5 of the Specification.

Claims 3, 5, and 10 are amended and claims 11-19 are added in response to the Examiner's multiple dependency objection.

New claim 20 is supported by the original specification at least at pages 4-6 and in Figures 1-6.

III.   Objections to multiple dependent claims

Claims 4, 5, 6, 7, 11, 12 and 13 were objected to under 37 C.F.R. § 1.75(c) as being improper multiple dependent claims. Applicant traverses this objection and directs the Examiner's attention to M.P.E.P. § 608.02(n) and, in particular, the fee calculation example in that section. Applicant's claims were of the proper format as illustrated by example claims 1-6 in the fee calculation example. Applicant's claims were not of the type illustrated by example claim 7, which seems to be alleged by the Examiner.

Although Applicant disagrees with the validity of the objection to the format of the claims, in order to advance the pending claims to issuance, Applicant has amended claims 3, 5 and 10 and added new claims 14-19 to remove any multiple dependency. No new mater is added by these amendments.

IV.   Claim Rejections in view of Gessel

Claims 1-3, 5-10, and 13 stand rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by Gessel, and claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Gessel in view of Matsui.

The Gessel patent is directed to a system and method for testing Open Systems Interface (OSI) layers 3 through 7 of a communication protocol. (Abstract). The Gessel system tests OSI layers 3-7 as they are used in a local area network (LAN) between a protocol simulator on one end and either a target telecommunications node or a target telecommunications system emulator on the other end. (Abstract). Gessel teaches that OSI layers 1 and 2 are frequently unaffected by new functions and services and, therefore, do not need to be tested. (Column 5, lines 5-8). As a result, the Gessel system removes the physical (layer 1) and data link (layer 2) protocol layers and provides for testing of just OSI layers 3-7. (Column 5, lines 13-27). In particular, layers 1 and 2 of the communication protocol are replaced with the TCP/IP protocol on a LAN. (Column

5, lines 23-30). Gessel teaches using an Internet socket for a UNIX application that simulates the hardware of normal protocol layers 1 and 2 for the unit under test. (Column 7, lines 35-40). The Gessel protocol tester and target telecommunication node are linked by the LAN instead of normal communication links for the protocol under test. Accordingly, layers 1 and 2 of the communication protocol under test do not exists and, therefore, are not available in the Gessel system.

Claim 1 recites:

selecting a protocol layer to be emulated by the protocol tester for testing a specified protocol layer of the item under test on the basis of the communication procedure, the protocol layer selected from a displayed list of protocol layers that are capable of being emulated by the protocol tester, the list of protocol layers including at least one layer 2 protocol from an OSI (Open Systems Interconnection) reference model.

Claim 8 recites:

means for displaying a list of protocol layers capable of being emulated by the protocol tester, the list of protocol layers including at least one layer 2 protocol from an OSI (Open Systems Interconnection) reference model.

Claim 20 recites:

means for displaying a list of protocol layers capable of being emulated by the protocol tester, the list of protocol layers including at least one layer 2 protocol from an OSI (Open Systems Interconnection) reference model.

As noted above, the Gessel patent does not use or include the layer 1 or layer 2 protocols for a unit under test. Instead, those layers are provided by a TCP/IP protocol, which is not a protocol under test. Accordingly, Gessel does not teach or suggest emulating or using layer 1 or layer 2 protocols. In fact, Gessel is unable to emulate the layer 2 protocols because the "normal" hardware connection between the Gessel protocol simulator and the target telecommunications node has been replaced with a LAN. Therefore, Gessel does not teach or suggest displaying a list of protocol layers that can be emulated by the protocol tester, wherein the protocol layers include a layer 2 protocol.

Claims 1, 8 and 20, respectively, further recite:

(1) selecting abstract communication interfaces of the emulated protocol layer for the communication procedure, the abstract communication interfaces selected from a displayed list of abstract communication interfaces associated with the selected protocol layer;

(8) means for displaying a list of abstract communication interfaces for the communication procedure, the list of abstract communication interfaces associated with the selected protocol layer to be emulated; or

(20) means for displaying a list of service access points for the communication procedure, the list of service access points interfaces associated with the selected protocol layer.

The Gessel reference does not teach or suggest displaying a list of abstract communication interfaces or a list of service access points and allowing a user to select abstract communication interfaces or a list of service access points for a communication procedure.

The Matsui reference also fails to teach or suggest these elements of claims 1, 8 and 20.

Accordingly, the cited Gessel reference and the proposed combination of Gessel and Matsui fail to teach or suggest all of the elements of independent claims 1, 8, and 20. Applicant respectfully requests that the Examiner withdraw the current rejections and pass the claims to allowance.

Claims 2-7, and 9-19 depend from independent claims 1 and 8 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

In view of the above, Applicant respectfully submits that the application is in condition for allowance and request that the Examiner pass the case to issuance. If the Examiner should have any questions, Applicant requests that the Examiner please contact Applicant's attorney at the address below. In the event that the enclosed fees are insufficient, please charge any additional fees required to keep this application pending, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

September 24, 2008   /Michael J. Fogarty, III/
Date   Michael J. Fogarty, III
                                          Attorney for Applicants
                                          Reg. No. 42,541

SLATER & MATSIL, L.L.P.
17950 Preston Rd., Suite 1000
Dallas, Texas 75252
Tel.: 972-732-1001
Fax: 972-732-9218